

Martin K. Banks (#5443)
martin.banks@stoel.com
Jason T. Morgan (*pro hac vice pending*)
jason.morgan@stoel.com
STOEL RIVES LLP
201 S Main Street, Suite 1100
Salt Lake City, UT 84111
Telephone: (801) 328-3131

Attorneys for Intervenor-Defendant
Enefit American Oil Co.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

LIVING RIVERS; GRAND CANYON
TRUST; CENTER FOR BIOLOGICAL
DIVERSITY; NATURAL RESOURCES
DEFENSE COUNCIL; SIERRA CLUB;
WATERKEEPER ALLIANCE, INC.;
COLORADO RIVERKEEPER; and
UTAH PHYSICIAN FOR A HEALTHY
ENVIRONMENT;

Plaintiffs ,

v.

DAVID BERHARDT, Secretary of the
Interior; JOSEPH BALASH, Assistant
Secretary for Land and Mineral
Management; U.S. DEPARTMENT OF
THE INTERIOR; U.S. BUREAU OF
LAND MANAGEMENT; U.S. FISH &
WILDLIFE SERVICE; and LARRY
CRIST, Field Supervisor of the U.S. Fish
& Wildlife Service's Utah Field Office;

Federal Defendants,

ENEFIT AMERICAN OIL CO.,

Intervenor-Defendant.

**INTERVENOR-DEFENDANT ENEFIT
AMERICAN OIL CO.'S STATEMENT
DENYING ARBITRARY OR
CAPRICIOUS ACTION**

Civil No. 4:19-CV-00041-DN-PK

Judge David Nuffer
Magistrate Judge Paul Kohler

Pursuant to DUCivR 7-4(a)(2), Intervenor-Defendant Enefit American Oil Co. (“Enefit”) submits this Statement Denying Arbitrary or Capricious Action in response to Plaintiffs’ complaint for declaratory and injunctive relief, (ECF No. 2). Intervenor-Defendant Enefit joins with the Federal Defendants and denies that the decisions of the Federal Defendants approving and issuing the rights-of-way across federal public land violated or violate either the National Environmental Policy Act, the Endangered Species Act, or their implementing regulations. Intervenor-Defendant Enefit also joins with the Federal Defendants and denies that the decisions of the Federal Defendants were or are arbitrary or capricious or abuses of discretion, denies that the decisions were or are not supported by substantial evidence; and denies that the decisions were or are not in accordance with law, as Plaintiffs allege. *See* Complaint ¶¶ 34, 35, 36, 38, 39, 40, 42, 45, 46, 47 and 48. Intervenor-Defendant Enefit further joins with Federal Defendants and denies that Plaintiffs are entitled to any relief sought in the complaint. Consequently, Intervenor-Defendant Enefit denies that Plaintiffs have stated a claim for relief.

Respectfully submitted,

Dated: August 2, 2019

STOEL RIVES LLP

By: /s/ Martin K. Banks
MARTIN K. BANKS
JASON T. MORGAN
Attorneys for Intervenor Defendant
Enefit American Oil Co.

CERTIFICATE OF SERVICE

I certify that on August 2, 2019, I filed a copy of the foregoing document with the Clerk of the Court for the U.S. District Court of Utah by using the CM/ECF system. Participants in this Case No. 4:19-CV-00041-DN-PK who are registered CM/ECF users will be served by the CM/ECF system.

Heidi J. McIntosh Alex Hardee Michael Hiatt Earthjustice 633 17th Street Suite 1600 Denver, CO 80202 hmcintosh@earthjustice.org ahardee@earthjustice.org mhiatt@earthjustice.org	Caitlin Cipicchio U.S. Department of Justice, ENRD 601 D Street, NW Washington, DC 20579 caitlin.cipicchio@usdoj.gov
Michael S. Toll Grand Canyon Trust 4404 Alcott Street Denver, CO 80211 mtoll@grandcanyontrust.org	Rickey Turner U.S. Department of Justice, ENRD 601 D Street, NW Washington, DC 20579 rickey.turner@usdoj.gov
Edward B. Zukoski Center For Biological Diversity 1536 Wynkoop Street Suite 421 Denver, CO 80202 tzukoski@biologicaldiversity.org	

/s/ Martin K. Banks

Martin K. Banks
Jason T. Morgan

Attorneys for Intervenor-Defendant
Enefit American Oil Co.